

USDOL/OALJ Reporter

[*Comfort v. Raytheon Engineers & Constructors, Inc.*](#), 95-ERA-51 (ARB Jan. 16, 1997)

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U.S. Department of Labor
Administrative Review Board
200 Constitution Avenue, N.W.
Washington, D.C. 20210

ARB CASE NO. 97-037
ALJ CASE NO. 95-ERA-51
DATE: January 16, 1997

In the Matter of:

OTIS C. COMFORT, JR.,
COMPLAINANT,

v.

RAYTHEON ENGINEERS AND
CONSTRUCTORS, INC.
RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD^{[1](#)}

ORDER

This case arises under the Energy Reorganization Act of 1974, as amended, 42 U.S.C. § 5851 (1988 and Supp. IV 1992). The parties submitted a Stipulation of Dismissal and Settlement Agreement to the Administrative Law Judge (ALJ) seeking approval of the settlement and dismissal of the complaint. The ALJ issued a Recommended Decision and Order on December 20, 1996 approving the settlement.

Paragraph 2 of the Agreement indicates that Respondent will pay a specified amount to Complainant for all of his monetary claims, including any claim for attorney's fees and costs. There is no indication as to the actual amount of money to be paid to the Complainant pursuant to the proposed settlement.^{[2](#)} **The Board must know the amount Complainant will receive in order to determine if the settlement agreement is fair, adequate and reasonable.** This amount affects not only the Complainant's individual interest, but impacts on the public interest as well, because if the amount is not fair, adequate and reasonable, other employees may be discouraged from reporting safety violations. See *Plumlee v. Alyeska Pipeline Service Co.*, 92-TSC-7, Sec. Dec. and Order,

Aug. 6, 1993, slip op. at 5; *Biddy v. Alyeska Pipeline Service Company*, ARB Case Nos. 96-109, 97-015, Order, May 31, 1996, slip op. at 1-2. **Therefore, prior to approving the settlement, the Board requires the parties to provide the settlement amount to the Board, with attorney's fees and costs separately identified.**

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The parties are required to file a joint response to this Order within ten (10) days. If the parties cannot agree upon a joint response, Complainant's counsel is to submit the required information within ten (10) days from the issuance of this Order. Respondent may submit a response within fifteen (15) days of the issuance of this Order.

SO ORDERED.

DAVID A. O'BRIEN
Chair

KARL J. SANDSTROM
Member

JOYCE D. MILLER
AlternateMember

[ENDNOTES]

¹ On April 17, 1996, a Secretary's Order was signed delegating jurisdiction to issue final agency decisions under this statute to the newly created Administrative Review Board. 61 Fed. Reg. 19978 (May 3, 1996). Secretary's Order 2-96 contains a comprehensive list of the statutes, executive order, and regulations under which the Administrative Review Board now issues final agency decisions. Final procedural revisions to the regulations implementing this reorganization were also promulgated on that date. 61 Fed. Reg. 19982.

² Likewise, the Agreement does not specify the amount of attorney's fees to be paid.